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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,841	06/24/2003	Kevin Patrick Durham	954619-1009	9287

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EXAMINER

PEAVEY, ENOCH E

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EA

Office Action Summary	Application No. 10/602,841	Applicant(s) DURHAM, KEVIN PATRICK	
	Examiner Enoch E Peavey	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

hcl

f

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 27-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Penza, US No. 6,510,868. Penza discloses a sealing element (fig. 3) comprising elastomeric material (Col. 12, lines 49-50). The seal element (130) comprises part of a reciprocating gas compressor valve (100). The valve is a ported plate valve (110) formed by seat 110 and guard 120).

3. With regard to claims 27-34 the claims are being examined as they pertain to the sub-combination of a sealing element, therefore the particular type of gas valve in which the seal element is located is given little patentable weight. Further, the operating temperature and pressure is considered to be inherent in the elastomeric material because applicant has not structurally differentiated the material of the instant invention from that of the prior art.

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4. Claims 27-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Jainek et al., US No. 6,234,194. Jainek discloses a sealing element (formed by 7, 9, 15 and coating) comprising elastomeric material (optional coating, Col. 1, line 64). A layer of elastomeric material (optional coating) may be bonded to the substrate (7, 9, 15).

5. The claims are being examined as they pertain to the sub-combination of a sealing element, therefore the particular type of gas valve in which the seal element is located is given little patentable weight. Further, the operating temperature and pressure is considered to be inherent in the elastomeric material because applicant has not structurally differentiated the elastomeric material of the instant invention from that of the prior art.

6. Claims 27-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al., US No. 5,088,521. Johnson discloses a sealing element (formed by 101 and 102) comprising elastomeric material (102). A layer of elastomeric material (102) may be bonded (Col. 5, lines 58-60) to a substrate (101). The elastomeric material may be made of rubber.

7. The claims are being examined as they pertain to the sub-combination of a sealing element, therefore the particular type of gas valve in which the seal element is located is given little patentable weight. Further, the operating temperature and pressure is considered to be inherent in the elastomeric material because applicant has not structurally differentiated the elastomeric material of the instant invention from that of the prior art.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

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matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Penza in view of Jainek. Penza discloses substantially the same seal as applicant (e.g. the embodiment where the seal plate is formed of stainless steel, Col. 4, lines 40-41) except for the sealing element having at least one layer of elastomeric material. Jainek discloses coating a sheet metal seal (Col. 1, line 64) in order to provide a good long lasting seal against a housing. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the seal of Penza as taught by Jainek in order to provide t a good long lasting seal against the seals housing.

9. Claims 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Penza in view of Jainek. Penza discloses substantially the same gas compressor valve as applicant except for the valve being a single element non-concentric valve. Jainek discloses such a valve (FIG. 1) in order to provide flow through a non-concentric single element. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Penza as taught by Jainek in order to provide the gas compressor provide flow through a non-concentric single element.

10. Claims 27-34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Penza in view of Basset, US No. 5,511,583. Penza discloses substantially the same gas compressor valve as applicant except for the valve being a concentric ring valve. Basset discloses such a valve (FIG. 1) in order to provide flow through a concentric ring element. It would have been

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obvious to one of ordinary skill in the art at the time of applicant's invention to modify Penza as taught by Basset in order to provide the gas compressor provide flow through a concentric ring element.

11. Claim 27-34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Penza in view of Jainek as applied to claims 27-34 in paragraph 9 above, and further in view of Basset. Penza and Jainek discloses substantially the same seal as applicant except for the valve being a concentric ring valve. Basset discloses such a valve in order to provide flow through a concentric ring element. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Penza and Jainek as taught by Basset in order to provide the gas compressor provide flow through a concentric ring element.

Response to Arguments

Applicant's arguments filed 18 May 2005 have been fully considered but they are not persuasive. Applicant's primary argument is that Penza teaches line contact and not surface contact. Examiner disagrees. In as much as the instant application discloses surface contact, Penza discloses the same.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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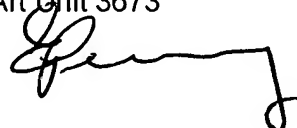
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Enoch E. Peavey whose telephone number is (571) 272-7061. The examiner can normally be reached on Mon-Fri 8:00 am to 4:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Enoch E Peavey
Primary Examiner
Art Unit 3673



July 5, 2005